

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

STEVEN FLOYD VOSS,

Petitioner,

vs.

GREG COX, et al.

Respondents.

Case No. 3:11-cv-00223-LRH-WGC

**ORDER**

Before the court are petitioner's motion for relief from judgment (#75), respondents' opposition (#76), and petitioner's reply (#77). The court finds that relief is not warranted, and the court denies the motion.


The court had found that the amended petition (#10) was mixed, containing both claims exhausted in state court and claims not exhausted in state court. Order, at 2 (#46). The court gave petitioner three options: Voluntary dismissal of the unexhausted claims, dismissal of the action while he returns to state court, or a motion to stay the action while he returns to state court. *Id.* at 2-3. Petitioner chose to dismiss the action. Declaration (#63). The court dismissed the action. Order (#64).

Petitioner argues that the court should have advised him of the consequences of dismissal of the action, specifically that a subsequently filed federal habeas corpus petition might be untimely pursuant to 28 U.S.C. § 2244(d). The court is under no such obligation. *Pliler v. Ford*, 542 U.S. 225, 231 (2004). Nor were the choices that the court presented to petitioner misleading. The court stated accurately the options that were available to petitioner, and telling petitioner that the

1 dismissal would be without prejudice meant that he would not be barred from filing a new petition  
2 within the applicable limitation period. Ford v. Pliler, 590 F.3d 782, 788-89 (9th Cir. 2009);  
3 Brambles v. Duncan, 412 F.3d 1066, 1070-71 (9th Cir. 2005). Relief from the judgment is not  
4 warranted in this case.

5 IT IS THEREFORE ORDERED that petitioner's motion for relief from judgment (#75) is  
6 **DENIED.**

7 DATED this 16th day of December, 2013.

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10 LARRY R. HICKS  
11 UNITED STATES DISTRICT JUDGE  
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